



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

*Rec'd 8 May 2000
JFM*

EPA Region 5 Records Ctr.



303213

REPLY TO THE ATTENTION OF

MAY 03 2000

Sent via Telecopier and Certified Mail

C-14J

Ms. Susan Sadler, Esq
Dawda, Mann, Mulcahey & Sadler, P.L.C.
1533 North Woodward Avenue, Suite 200
Bloomfield Hills, Michigan 48304-2815

Dear Ms. Sadler:

The United States Environmental Protection Agency (U.S. EPA) is, as you know, investigating the Chemical Recovery Systems Superfund Site in Elyria, Ohio. Extensive contamination of soil and groundwater at the site occurred during the solvent recovery operations of the Chemical Recovery Systems, Inc. company at the site. This company, an Ohio corporation, was a wholly owned subsidiary of a Michigan corporation also called Chemical Recovery Systems. USEPA has learned that your client, Mr. Peter Shagena, an officer of both the Michigan and Ohio corporations, was instrumental in developing, directing and controlling the operations of the Ohio company.

Two of U.S. EPA's civil investigators interviewed Mr. Shagena on January 21, 2000. They reported Mr. Shagena was affable, but not particularly helpful when asked for his recollections of the operation and the customers who sent solvents and/or other chemicals to the site. He told the investigators that he would look for records that might be responsive to their questions regarding the customers who sent chemicals to the site, but did not indicate that he had any such records in his possession.

A formal request for those customer records was sent to your client, Mr. Shagena, on February 17, 2000, as part of a broader request for information about the site and the company, issued under the authority of Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9604(e).

You responded on Mr. Shagena's behalf on March 23, 2000, with a letter which requested an extension of time in which to respond to the information request. Your letter also informed the Agency that your client did possess the records which the Agency sought. Your letter was received by the Remedial Project Manager assigned to this site, Ms. Gwen Massenburg, on April 3, 2000. I received a copy the next day, April 4, 2000.

I called you on the phone and told you that EPA wanted those records. You told me that your

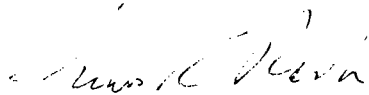
client would be happy to provide them. I called you again on several occasions during the month of April to learn whether your client had mailed the records to us. You told me that there were several banker's boxes, that they contained the customer records for the period when operations at the site were controlled by Mr. Shagena's company, that Mr. Shagena had to package the records for shipment, and that you had repeatedly advised him to do so. My records show that I called you twice in each week. I offered to send a civil investigator out to Michigan to pick up the records and spare Mr. Shagena the expense and trouble of packaging and mailing them.

Finally, last Thursday, April 27, 2000, I called you and told you that one of our civil investigators would be in Michigan this week (May 1-5) and would come to your office or any other location you designated to pick up the boxes containing the records. You objected that the boxes were dirty and you did not want them in your office. The next day, Friday, April 28, you told me that your client had packaged the boxes and would mail them either today, May 1, 2000 or on Saturday, April 29, 2000.

I told you several weeks ago that I hoped it would not be necessary to subpoena Mr. Shagena in order to obtain the documents. I would still prefer to get the documents without being forced to take enforcement actions against Mr. Shagena. However, he has made himself liable to an enforcement action for failure to comply with Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9604(e). I think I have made it clear to you that my primary immediate objective here is to get the records that show who sent what chemicals to the site.

I hope that Mr. Shagena has now sent the records to U.S. EPA. If he has not, my civil investigator is still willing and able to save Mr. Shagena that trouble by picking the records up from him. Please ask Mr. Shagena if he has sent the records to U.S. EPA, and, if he has not, whether he prefers to deliver them by hand to our man in the field. If we do not have the records by the end of next week, May 12, 2000, U.S. EPA will be compelled to explore other legal options to compel a transfer of those records. I can be reached at 312-886-0552, and am always ready to talk with you.

Sincerely,



Thomas C. Nash
Associate Regional Counsel

cc: Gwen Massenburg
Margaret Herring
Thomas Marks
T. Leverett Nelson
Reginald Arkell
Deena Sheppard-Johnson